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Action by Alice Gentry against the City of Richmond and another. There was a judgment for plaintiff, and the defendant city brings error. Affirmed.

H. R. Pollard and Geo. Wayne Anderson, for plaintiff in error.

F. T. Sutton, Jr., E. M. Roscher and P. A. L. Smith, for defendant in error.

CITY OF RICHMOND *v.* LAMBERT.

June 9, 1910.

[68 S. E. 276.]

Municipal Corporations (§ 777*)—Obstruction in Street—Injury to Pedestrian—Liability Therefor.—A step 4½ inches high and 10½ inches wide, close up to a building in front of which it is placed, and used as a means of access to it from the street, does not constitute an unlawful obstruction, and does not interfere to an appreciable or unreasonable extent with the use of the sidewalk, so as to sustain an action by a pedestrian injured by stumbling over it.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. § 1631; Dec. Dig. § 777.* For other cases, see 12 Va.-W. Va. Enc. Dig. 907, et seq.; also 14 Id. 976.]

Error to Circuit Court of City of Richmond.

Action by one Lambert against the City of Richmond and others. There was a judgment for plaintiff, and defendant city brings error. Reversed.

H. R. Pollard and G. W. Anderson, for plaintiff in error.

John A. Lamb and S. A. Anderson, for defendant in error.

MONK et al. *v.* EXPOSITION DEEPWATER PIER CORPORATION et al.

June 9, 1910.

[68 S. E. 280.]

1. Mechanics' Liens (§ 263*)—Enforcement—Parties.—Though proper parties, in the absence of statute requiring it, subsequent incumbrancers are not necessary parties in a suit to enforce a mechanic's lien.

[Ed. Note.—For other cases, see *Mechanics' Liens*, Cent. Dig. § 476; Dec. Dig. § 263.* For other cases, see 9 Va.-W. Va. Enc. Dig. 778.]

2. Mechanics' Liens (§ 235*)—Enforcement—Limitations—Bringing in Subsequent Incumbrancers.—A suit to enforce a mechanic's

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.

lien, under Code 1904, §§ 2481, 2484, requiring a suit to be brought within six months, and declaring that the liens may be enforced in equity, and when a suit is brought all persons entitled to any lien may file petitions for the enforcement of their respective interests, etc., must be conducted as other suits in equity to subject property to the payment of liens; and where a suit to enforce a lien is brought against the debtor within the time fixed, the failure to implead within the time a subsequent incumbrancer, within section 2483, does not defeat the lien as against the incumbrancer.

[Ed. Note.—For other cases, see *Mechanics' Liens*, Cent. Dig. § 418; Dec. Dig. § 235.* For other cases, see 9 Va.-W. Va. Enc. Dig. 778, 781.]

3. Mechanics' Liens (§ 264*)—Enforcement—Parties—Determination of Entire Controversy.—The lien claimant, by making the subsequent incumbrancer a party, enables the court to determine the entire controversy.

[Ed. Note.—For other cases, see *Mechanics' Liens*, Cent. Dig. § 482; Dec. Dig. § 264.* For other cases, see 8 Va.-W. Va. Enc. Dig. 678, et seq.; also 14 Id. 612.]

4. Liens (§ 22*)—Enforcement—Actions.—A lien creditor may sue on behalf of himself and other lien creditors to subject the property to the payment of the liens, and such other creditors may come into the suit by petition or under a decree for account, and on the return of the account the court may sell the property and distribute the proceeds among those entitled thereto.

[Ed. Note.—For other cases, see *Liens*, Cent. Dig. § 32; Dec. Dig. § 22.* For other cases, see 8 Va.-W. Va. Enc. Dig. 674, et seq.; also 14 Id. 612.]

5. Limitation of Actions (§ 172*)—Party Entitled to Plead Limitations.—Generally one creditor may set up limitations to defeat the demand of a co-creditor; but, to sustain the plea, it must be shown that the co-creditor's debt is barred as between himself and the debtor.

[Ed. Note.—For other cases, see *Limitation of Actions*, Cent. Dig. § 657; Dec. Dig. § 172.* For other cases, see 8 Va.-W. Va. Enc. Dig. 440.]

Appeal from Circuit Court, Norfolk County.

Suit by John Monk and another against the Exposition Deepwater Pier Corporation and others. From a decree of dismissal, plaintiffs appeal. Reversed and remanded.

Jeffries, Wolcott, Wolcott & Lankford, for appellants.
W. L. Williams, for appellees.

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.